IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1030 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

D K KALYAN

Versus

STATE OF GUJARAT

Appearance:

MR BM GUPTA for Petitioner

MR ND GOHIL APP for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 21/06/2001

ORAL JUDGEMENT

#. The applicant-accused was Major, now retired, from army. One FIR is lodged against him along with other accused for the offences under Section 409, 467, 468

read with Section 114 of IPC.

#. Several technical contentions have been raised by learned counsel Shri B.M.Gupta for applicant-accused in this matter, which is filed under Section 482 of the Criminal Procedure Code seeking the impugned order dated 25.10.1999 passed by the learned JMFC., Court No.2 below Exh.26 in Criminal Case No.1805 of 1993 to be quashed. Once charge is framed on 18.7.1986 then there is no provision under which the applicant-accused can apply before the same court for discharging him. Once that application is dismissed by the learned Magistrate on 25.10.1999 then such an interlocutory order cannot be challenged by the applicant under Section 379(2) of the Criminal Procedure Code. Therefore, this petition is filed under Section 482 of Criminal Procedure Code cannot be entertained and, therefore, without going into the merits of the case this application is dismissed only on this ground. Rule discharged. Interim relief, if any, granted earlier stands vacated.

(B.J.Shethna, J.)
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